

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

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DEREK ALLEN,

Petitioner,

v.

C. J. DEROSA, Warden, et al.,

Respondents.

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Civil No. 04-1783 (FLW)

**O R D E R**

THIS MATTER having come before the Court on application of petitioner, Derek Allen, for habeas relief pursuant to 28 U.S.C. § 2241; and the Court having reviewed all written submissions by the petitioner and respondent; and for the reasons discussed in the accompanying Opinion;

IT IS on this 2nd day of December, 2005,

**ORDERED** that petitioner's claim for relief under 28 U.S.C. § 2241, challenging the manner in which his sentence is being executed by the respondent Warden, C.J. DeRosa, is hereby **DISMISSED WITHOUT PREJUDICE** for failure to exhaust administrative remedies; and it is further

**ORDERED** that petitioner's claim as against the Pennsylvania Board of Probation and Parole, challenging the validity of a warrant for detainer, is hereby **DISMISSED WITH PREJUDICE** for lack of "in custody" jurisdiction; and it is finally

**ORDERED** that the Clerk is directed to serve this Order upon the parties, pursuant to the Federal Rules of Civil Procedure, and to close this file accordingly.

S/Freda L. Wolfson

FREDA L. WOLFSON

United States District Judge